

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0619P

Sales & Use Tax

Calendar Years 1996, 1997, & 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The taxpayer was assessed the negligence penalty as the result of a use tax assessment resulting from an audit conducted for the calendar years 1996, 1997, & 1998.

The taxpayer is a manufacturer that produces veneer faces and hardwood panels for the furniture, cabinet, fixture, door, woodcraft and home center industries. Sales are made both retail and wholesale. The taxpayer has one business location that is in Indiana.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the penalty should not be assessed as the error was not intentional nor malicious. The taxpayer states the error was a result of a large turnover of personnel, and, the taxpayer states they are ignorant of the listed tax laws in question.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or

regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.